

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:21-cv-00648-FDW-DSC

JOLLENTA PLUMMER, individually and on )  
behalf of all others similarly situated, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TMC RESTAURANT OF CHARLOTTE, )  
LLC; DOE MANAGERS 1 THROUGH 3; )  
ABDUR RASCHID CHAUDHARY; DOES )  
4 THROUGH 10; AND LLOYD J ACE III, )  
 )  
Defendants. )  
\_\_\_\_\_ )

ORDER

THIS MATTER is before the Court on Defendants’ Motion to Dismiss, (Doc. No. 11), and also *sua sponte* following the Court’s recent order granting the Motion to Withdraw, (Doc. No. 13), filed by counsel for Plaintiff Jollenta Plummer. Based on the representations in the motion to withdraw, neither Plummer nor counsel have presented evidence to this Court to oppose Defendants’ pending Motion to Dismiss, (Doc. No. 11), and the time for doing so has long expired. Thus, the evidence and argument provided in Defendants’ motion to dismiss and supporting memorandum, (Doc. No. 12), is uncontradicted. Therefore, based on the record before the Court and for the reasons stated in Defendants’ pleadings, including the authorities and argument provided therein, this Court lacks subject matter jurisdiction over Plummer’s claims against Defendants. Plummer’s claims are therefore DISMISSED.

Although the Court has allowed Plummer's counsel to withdraw from representation of her, it is unclear from counsel's motion whether counsel intends to represent and/or pursue claims on behalf of Kirsten Cavanaugh. (See Doc. No. 10-1). Notably, the Notice of Consent to Join, (Doc. No. 10), was filed a day prior to Defendants' motion to dismiss; however, the motion to dismiss makes no mention of the impact of dismissal of Plummer on any claims sought to be joined by Kirsten Cavanaugh.

Therefore, the Court hereby DIRECTS Plummer's previous counsel to provide a statement to the Court as to whether counsel intends to represent and/or pursue claims on behalf of Kirsten Cavanaugh and, if so, include argument and authorities as to the impact of the dismissal of the named Plaintiff on any claims of Kirsten Cavanaugh in this pending action. This statement shall be no longer than 1,500 words and must be filed with the Court no later than June 29, 2022. Defendants may file any response to such statement by July 13, 2022, and such response is also limited to 1,500 words.


IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss, (Doc. No. 11), is GRANTED, and Plummer's claims against Defendants are DISMISSED.

IT IS FURTHER ORDERED that Plummer's previous counsel SHALL provide a brief to the Court as to whether counsel intends to represent and/or pursue claims on behalf of Kirsten Cavanaugh and, if so, include argument and authorities as to the impact of the dismissal of the named Plaintiff on any claims of Kirsten Cavanaugh in this pending action. The briefing of this issue is governed by the deadlines and word count limitations set forth herein.

IT IS FURTHER ORDERED that the Clerk is respectfully directed to serve this Order via ECF on Plummer's attorneys of record Jesenia Martinez and Randall Joseph Phillips, as well as on Plummer at her last known address of 9517 Old Cascade Drive, Garner, North Carolina 27529.<sup>1</sup>

IT IS SO ORDERED.

Signed: June 21, 2022

  
Frank D. Whitney  
United States District Judge

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<sup>1</sup> See Doc. No. 13-1, p. 2.